

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri M. S. Keny, State Chief Information Commissioner

Complaint No.142/SCIC/2011

Shri Premnath Mahadev Gurav
r/o.H. No.130(A), Fernand Waddo,
Assonora, Bardez - Goa

... Complainant

V/s.

1. The Public Information Officer,
Mamlatdar of Bardez,
Mapusa-Goa
2. The First Appellate Authority,
Dy. Collector & S.D.O.,
Mapusa Sub Division,
Mapusa-Goa

... Opponent

Complainant present.

Opponent No.1 and 2 absent.

Shri R. Mayenkar representative of opponent No.1 present.

ORDER
(06/07/2012)

1. The Complainant, Shri Premnath Mahadev Gurav, has filed the present complaint praying that the necessary action be taken U/s.18(b) of the Right to Information Act ('R.T.I. Act for short) as the said information is required by him to file proceeding to purchase the mundkarial dwelling house.

2. The brief facts leading to the present complaint are as under:-

That the complainant, vide application dated 2/3/2011, sought certain information under Right to Information Act, 2005 ('R.T.I.' Act for short) from the Public Information Officer(P.I.O.)/opponent No.1. That the opponent No.1 vide letter

dated 26/4/2011 informed the complainant that the information sought for is not available in his office. Being not satisfied the complainant preferred the appeal before the First Appellate Authority (F.A.A)/Opponent No.2. That the opponent No.2 by order dated 2/8/2011 directed the opponent No.1 to issue the information sought for by the complainant within 10 days. That in spite of the said order, the opponent No.1 did not furnish the information. Being aggrieved the complainant has filed the present complaint.

3. That in pursuance of the notice, respondent did not appear. However, Shri R. Mayenkar, representative of opponent No.1 appeared. He did not file any reply as such.

4. Heard the complainant as well as Shri R. Mayekar, the representative of opponent No.1 and perused the records.

It is seen that by application dated 2/3/2011 the complainant filed application seeking the certified copy of Judgement and order dated 9/3/1989 passed by Court of Joint Mamlatdar of Bardez,, Mapusa in case No.JM/MND/BAR-ASS/10/85 alongwith the certified copy or the extract of Register of Mundkars maintained U/s.29 of the Goa Mundkars Act, in Form No.XI in respect of the same. By reply dated 26/4/2011, the P.I.O./Opponent No.1 informed the complainant that information sought by him is not available in his office. Being aggrieved, the complainant preferred an appeal before the F.A.A./opponent No.2. It is seen that by order dated 2/8/2011, the opponent No.2 directed the P.I.O. to issue the information to the appellant within 10 days. It is seen that this order is not complied with.

During the course of arguments the representative of opponent No.1 states that the said information is not available. By letter dated 16/8/2011, the P.I.O. again reiterated that the

information sought by the complainant is not traceable in their office. This reply was in pursuance to the order of F.A.A.

5. In short, according to the opponent, the information is not traceable. No doubt information is of the year 1989. If the contention of the opponent that information cannot be furnished as information is not traceable is accepted then it would be impossible to implement R.T.I. Act. However it is also a fact that information that is not available, the same cannot be furnished. It is to be noted here that it is obligatory to the public authority to maintain records properly so as to facilitate Right to Information under R.T.I. Act.

It is pertinent to note that information sought refers to the Court proceeding. The authorities like the opponent No.1 are the custodian of public documents and it becomes their duty to preserve such records properly. It is the case of the opponent that the records are not traceable. To my mind records are to be searched properly and traced and in case the same are not available, higher authorities should hold proper inquiry and if the attempt is deliberate to deny the information, the delinquent officer/official be brought to book.

6. In view of the above, I pass the following order :-

ORDER

The complaint is allowed. The opponent No.1 is directed to comply the order of First Appellate Authority and further directed to trace the said register within 20 days from the receipt of this order and report compliance

In case, the said documents/information is not traced within said period of 20 days, the Dy. Collector, Bardez, Mapusa-Goa shall depute the competent officer to hold inquiry regarding the same and to fix responsibility for misplacement/missing of said register

and initiate action against delinquent officer/official and/or be suitably penalized as per law. The inquiry to be completed as early as possible preferably within 2 months.

The complaint is accordingly disposed off.

Pronounced in the Commission on this 6th day of July, 2012.

Sd/-
(M. S. Keny)
State Chief Information
Commissioner